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OFFICE OF PETITIONS

In re Application of	:	
Eastman et al.	:	
Application No. 10/796,792	:	ON PETITION
Filed: 9 March, 2004	:	
Attorney's Docket No. D-1218 R2	:	

This is a decision on the petition filed on 24 September, 2004, requesting that the above-identified application be accorded a filing date of 9 March, 2004, with Pages 2 and 3 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 9 March, 2004.

Accordingly, on 3 September, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 9 March, 2004, but that Pages 2 and 3 of the specification (description and claims) appeared to have been omitted. The statutory basic filing fee, an executed oath or declaration, and the surcharge for their late filing was also required.

In response, on 24 September, 2004, the present petition and a copy of Pages 2 and 3 of the specification were filed, along with an executed declaration and the required filing fees. Petitioners argue that Pages 2 and 3 of the specification were filed with the other application papers on 9 March, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard

receipt shows an Office date stamp of 03/09/04, the above-identified application number, and identifies the application by the first named inventor's last name, attorney docket number, and invention title and acknowledges receipt of, *inter alia*, 90 pages of specification. Petitioner requests that the application, including Pages 2 and 3 of the specification, be accorded a filing date of 9 March, 2004.

A review of the record reveals that no Pages 2 and 3 of the specification have been located among the application papers received on 9 March, 2004. However, the evidence is convincing that the application papers deposited on 9 March, 2004, included Pages 2 and 3 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including Pages 2 and 3 of the specification, is entitled to a filing date of 9 March, 2004.

The "Notice" mailed on 3 September, 2004, is vacated to the extent that it stated that Pages 2 and 3 of the specification appear to have been omitted.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with the copy of Pages 2 and 3 supplied on 24 September, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 9 March, 2004, using the application papers filed on that date, and the copy of Pages 2 and 3 of the specification supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



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